

**LEMON GROVE SANITATION DISTRICT
AGENDA ITEM SUMMARY**

Item No. 3
Mtg. Date March 17, 2015
Dept. Development Services

Item Title: **Award Contracts for the Sewer Capital Improvements Project**

Staff Contact: Leon Firsht, City Engineer

Recommendation:

Adopt resolutions (**Attachment B** and **C**) awarding a construction contract for the Sewer Capital Improvements Project and establish a project budget not to exceed \$280,000, and a contract for professional services for construction support services.

Item Summary:

In support of the City's Five-Year Capital Improvement Program, staff advertised a notice inviting bids for "Sewer Capital Improvements Project: Cured in Place Pipe Lining" (Contract 2015-01) in January 2015. On February 25, 2015, staff received four sealed bids. Staff determined that of the bids received, Nu Line Technologies, LLC's was the lowest responsive and responsible bidder at \$189,946.

Staff also requested and received a proposal from Dokken Engineering, Exhibit A (**Attachment D**) one of the City's as-needed engineering consultants for construction phase services which include engineering review of submittals and construction inspections. Ninyo & Moore, the City's as-needed geotechnical consultant, will provide geotechnical and material testing services for the project.

Adopt resolutions (**Attachment B** and **C**) awarding a construction contract for the Sewer Capital Improvements Project and establish a project budget not to exceed \$280,000, and a contract for professional services for construction support services.

Fiscal Impact:

Sanitation District funds were budgeted for this project as part of the Fiscal Year 2014-15 budget.

Environmental Review:

- | | |
|--|---|
| <input type="checkbox"/> Not subject to review | <input type="checkbox"/> Negative Declaration |
| <input checked="" type="checkbox"/> Categorical Exemption, Section 15301 | <input type="checkbox"/> Mitigated Negative Declaration |

Public Information:

- | | | |
|--|---|---|
| <input checked="" type="checkbox"/> None | <input type="checkbox"/> Newsletter article | <input type="checkbox"/> Notice to property owners within 300 ft. |
| <input type="checkbox"/> Notice published in local newspaper | <input type="checkbox"/> Neighborhood meeting | |

Attachments:

- | | |
|---|--|
| A. Staff Report | C. Resolution (Construction Support Contract) |
| B. Resolution (Award Construction Contract) | D. Construction Support Contract/Scope of Work |

LEMON GROVE SANITATION DISTRICT STAFF REPORT

Item No. 3

Mtg. Date March 17, 2015

Item Title: **Award Contracts for the Sewer Capital Improvements Project**

Staff Contact: Leon Firsht, City Engineer

Discussion:

In support of the City's Five-Year Capital Improvement Program, staff advertised a notice inviting bids for "Sewer Capital Improvements Project: Cured in Place Pipe Lining" (Contract 2015-01). In addition to the lining, the project proposes to install new cleanouts, and a new manhole.

On January 22, 2015, bid documents for the project were advertised in the East County Californian, online at eBidboard, and on the City's website. A voluntary pre-bid meeting was held on February 11, 2015; three potential bidders attended. On February 25, staff received four sealed bids. The name of each bidder, their location, and amount of their bid are listed below:

Bidder's Name	Location	Amount
Nu Line Technologies, LLC	Encinitas, CA	\$189,946
Southwest Pipeline	Torrance, CA	\$289,460
Wier Construction	Escondido, CA	\$316,800
Sancon Engineering, Inc.	Huntington Beach, CA	\$346,300

The engineer's estimate for this project was \$329,200. The low bid was submitted by Nu Line Technologies, LLC for \$189,946. After staff reviewed Nu Line Technologies, LLC's project work history, contacted all listed references, and reviewed its construction license, staff concluded that Nu Line Technologies, LLC is the lowest responsive and responsible bidder.

Staff also requested and received a proposal from Dokken Engineering, one of the City's as-needed engineering consultants, for construction phase services which include engineering review of submittals and construction inspections. Ninyo & Moore, the City's as-needed geotechnical consultant, will provide geotechnical and material testing services for the project. Staff reviewed the proposals submitted by Dokken Engineering and Ninyo & Moore for the project and deemed it a reasonable cost for the stated services.

Attachment A

Staff recommends the following budget for this project:

Description	Approx. % of Total Project Budget	Amount
Construction Costs	68%	\$189,946
Construction Inspection	14%	\$40,775
Material Testing	6%	\$16,668
Contingency	12%	\$32,611
Total	100%	\$280,000

Conclusion:

Staff recommends that the Board of Directors adopt resolutions (**Attachment B** and **C**) awarding a construction contract for the Sewer Capital Improvements Project and establish a project budget not to exceed \$280,000, and a contract for professional services for associated construction support services.

Attachment B

RESOLUTION NO. 2015-

RESOLUTION OF THE LEMON GROVE SANITATION DISTRICT BOARD OF DIRECTORS AWARDING A CONTRACT FOR THE SEWER CAPITAL IMPROVEMENTS PROJECT

WHEREAS, on January 22, 2015, bid documents for the Sewer Capital Improvement Project – Cured in Place Pipe Lining (project) were advertised in the East County Californian, and online at eBidboard and on the City’s website; and

WHEREAS, on February 11, 2015, a voluntary pre-bid meeting was held and three potential bidders attended; and

WHEREAS, on February 25, 2015, four bids were received for the project; and

WHEREAS, said bids were opened and the responsive and responsible low bidder was Nu Line Technologies, LLC; and

WHEREAS, staff determined a project budget not to exceed \$280,000 is warranted; and

WHEREAS, the Board of Directors finds it in the public interest that a Contract for said services be awarded.

NOW, THEREFORE, BE IT RESOLVED that the Lemon Grove Sanitation District Board of Directors hereby:

1. Awards a contract in the amount of one hundred eighty nine thousand, nine hundred and forty six dollars and zero cents (\$189,946) to Nu Line Technologies, LLC and
2. Establishes a project budget not to exceed two hundred fifteen thousand dollars (\$280,000), and
3. Authorizes the Executive Director or his designee to execute said contract.

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Attachment C

RESOLUTION NO. 2015-

RESOLUTION OF THE LEMON GROVE SANITATION DISTRICT AWARDING A PROFESSIONAL SERVICES CONTRACT FOR THE SEWER CAPITAL IMPROVEMENTS PROJECT

WHEREAS, the District's Capital Improvement Program provides for an annual project to repair pipeline deficiencies; and

WHEREAS, staff identified a list of locations in need of rehabilitation; and

WHEREAS, on January 15, 2013, the District Board approved Resolution No. 254 to enter into a professional services contract with Dokken Engineering to prepare bid documents; and

WHEREAS, on January 22, 2015, bid documents for the Sewer Capital Improvement Project – Cured in Place Pipe Lining were advertised in the East County Californian, online at eBidboard and on the City's website; and

WHEREAS, said bids were opened and the responsive and responsible low bidder was Nu Line Technologies, LLC; and

WHEREAS, staff requested and received a proposal from Dokken Engineering for construction phase services which include engineering review of submittals and construction inspections.

NOW, THEREFORE, BE IT RESOLVED that the Sanitation District of the City of Lemon Grove, California hereby:

4. Awards a professional services contract to Dokken Engineering; and
5. Approves a budget in an amount not to exceed \$40,775; and
6. Authorizes the Executive Director or his designee to execute and manage said contract.

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Exhibit A

AGREEMENT FOR CONSTRUCTION SUPPORT SERVICES

THIS AGREEMENT is approved and effective upon the date of the last signature, by and between the CITY OF LEMON GROVE, a municipal corporation (the "CITY"), and Dokken Engineering, a civil engineering firm (the "CONSULTANT").

RECITALS

WHEREAS, the CITY desires to employ a CONSULTANT to provide construction support and inspection services for the CITY.

WHEREAS, the CITY has determined that the CONSULTANT is qualified by experience and has the ability to perform the services desired by the CITY, and the CONSULTANT is willing to perform such services.

NOW, THEREFORE, THE PARTIES HERETO DO MUTUALLY AGREE AS FOLLOWS:

1. **ENGAGEMENT OF CONSULTANT.** The CITY hereby agrees to engage the CONSULTANT and the CONSULTANT hereby agrees to perform the services hereinafter set forth in accordance with all terms and conditions contained herein.

The CONSULTANT represents that all services required hereunder will be performed directly by the CONSULTANT or under direct supervision of the CONSULTANT.

2. **SCOPE OF SERVICES.** The CONSULTANT will perform services as set forth in Exhibit A.

The CONSULTANT shall be responsible for all research and reviews related to the work and shall not rely on CITY personnel for such services, except as authorized in advance by the CITY. The CONSULTANT shall participate in meetings as set forth in Exhibit A to keep staff and City Council advised of the progress on the project.

The CITY may unilaterally, or upon request from the CONSULTANT, from time to time reduce or increase the Scope of Services to be performed by the CONSULTANT under this Agreement. Upon doing so, the CITY and the CONSULTANT agree to meet in good faith and confer for the purpose of negotiating a corresponding reduction or increase in the compensation associated with said change in services.

3. **PROJECT COORDINATION AND SUPERVISION.** Leon Firsht, City Engineer, is hereby designated as the Project Manager for the CITY and will monitor the progress and execution of this Agreement. The CONSULTANT shall assign a single Project Manager to provide supervision and have overall responsibility for the progress and execution of this Agreement for the CONSULTANT. Mark Tarrall is hereby designated as the Project Manager for the CONSULTANT.

4. **COMPENSATION AND PAYMENT.** The compensation for the CONSULTANT shall be based on monthly billings covering actual work performed. Billings shall include labor classifications, respective rates, hours worked and reimbursable expenses, if any. The total

Attachment D

cost for all work described within Exhibit A shall not exceed FORTY THOUSAND SEVEN HUNDRED SEVENTY-FIVE DOLLARS (\$40,775) without prior written authorization from the CITY. Monthly invoices will be processed for payment and remitted within thirty (30) days from receipt of invoice, provided that work is accomplished consistent with Exhibit A as determined by the CITY.

The CONSULTANT shall maintain all books, documents, papers, employee time sheets, accounting records, and other evidence pertaining to costs incurred and shall make such materials available at its office at all reasonable times during the term of this Agreement and for three (3) years from the date of final payment under this Agreement, for inspection by the CITY and for furnishing of copies to the CITY, if requested.

5. **LENGTH OF AGREEMENT.** This Agreement will last number (365) days from the executed date of the Agreement or until all work has been completed by the CONSULTANT and accepted by the CITY, which ever occurs first.

6. **DISPOSITION AND OWNERSHIP OF DOCUMENTS.** The Memoranda, Reports, Maps, Drawings, Plans, Specifications and other documents prepared by the CONSULTANT for this Project, whether paper or electronic, shall become the property of the CITY for use with respect to this Project, and shall be turned over to the CITY upon completion of the Project, or any phase thereof, as contemplated by this Agreement.

Contemporaneously with the transfer of documents, the CONSULTANT hereby assigns to the CITY and CONSULTANT thereby expressly waives and disclaims, any copyright in, and the right to reproduce, all written material, drawings, plans, specifications or other work prepared under this Agreement, except upon the CITY's prior authorization regarding reproduction, which authorization shall not be unreasonably withheld. The CONSULTANT shall, upon request of the CITY, execute any further document(s) necessary to further effectuate this waiver and disclaimer.

The CONSULTANT agrees that the CITY may use, reuse, alter, reproduce, modify, assign, transfer, or in any other way, medium or method utilize the CONSULTANT's work product for the CITY's purposes, and the CONSULTANT expressly waives and disclaims any residual rights granted to it by Civil Code Sections 980 through 989 relating to intellectual property and artistic works.

Any modification or reuse by the CITY of documents, drawings or specifications prepared by the CONSULTANT shall relieve the CONSULTANT from liability under Section 14 but only with respect to the effect of the modification or reuse by the CITY, or for any liability to the CITY should the documents be used by the CITY for some project other than what was expressly agreed upon within the Scope of this project, unless otherwise mutually agreed.

7. **INDEPENDENT CONSULTANT.** Both parties hereto in the performance of this Agreement will be acting in an independent capacity and not as agents, employees, partners or joint venturers with one another. Neither the CONSULTANT nor the CONSULTANT'S employees are employees of the CITY and are not entitled to any of the rights, benefits, or privileges of the CITY's employees, including but not limited to retirement, medical, unemployment, or workers' compensation insurance.

This Agreement contemplates the personal services of the CONSULTANT and the CONSULTANT's employees, and it is recognized by the parties that a substantial inducement to the CITY for entering into this Agreement was, and is, the professional reputation and competence of the CONSULTANT and its employees. Neither this Agreement nor any interest herein may be assigned by the CONSULTANT without the prior written consent of the CITY. Nothing herein contained is intended to prevent the CONSULTANT from employing or hiring as many employees, or subcontractors, as the CONSULTANT may deem necessary for the proper and efficient performance of this Agreement. All agreements by CONSULTANT with its subcontractor(s) shall require the subcontractor to adhere to the applicable terms of this Agreement.

8. **CONTROL.** Neither the CITY nor its officers, agents or employees shall have any control over the conduct of the CONSULTANT or any of the CONSULTANT's employees except as herein set forth, and the CONSULTANT expressly agrees not to represent that the CONSULTANT or the CONSULTANT's officers, agents, or employees are in any manner officers, agents, or employees of the CITY. It is understood that the CONSULTANT, its officers, agents, and employees are as to the CITY wholly independent consultants and that the CONSULTANT's obligations to the CITY are solely such as are prescribed by this Agreement.

9. **COMPLIANCE WITH APPLICABLE LAW.** The CONSULTANT, in the performance of the services to be provided herein, shall comply with all applicable State and Federal statutes and regulations, and all applicable ordinances, rules and regulations of the CITY OF LEMON GROVE, whether now in force or subsequently enacted. The CONSULTANT, and each of its subcontractors, shall obtain and maintain a current CITY OF LEMON GROVE business license prior to and during performance of any work pursuant to this Agreement.

10. **LICENSES, PERMITS, ETC.** The CONSULTANT represents and covenants that it has all licenses, permits, qualifications, and approvals of whatever nature that are legally required to practice its profession. The CONSULTANT represents and covenants that the CONSULTANT shall, at its sole cost and expense, keep in effect at all times during the term of this Agreement, any license, permit, or approval which is legally required for the CONSULTANT to practice its profession.

11. **STANDARD OF CARE.** The CONSULTANT, in performing any services under this Agreement, shall perform in a manner consistent with that level of care and skill ordinarily exercised by members of the CONSULTANT's trade or profession currently practicing under similar conditions and in similar locations. The CONSULTANT shall take all special precautions necessary to protect the CONSULTANT's employees and members of the public from risk of harm arising out of the nature of the work and/or the conditions of the work site.

Unless disclosed in writing prior to the date of this Agreement, the CONSULTANT warrants to the CITY that it is not now, nor has it within the preceding five (5) years, been debarred by a governmental agency or involved in debarment, arbitration or litigation proceedings concerning the CONSULTANT's professional performance or the furnishing of materials or services relating thereto.

The CONSULTANT is responsible for identifying any unique products, treatments, processes or materials whose availability is critical to the success of the project the CONSULTANT has been retained to perform, within the time requirements of the CITY, or, when no time is specified, then within a commercially reasonable time. Accordingly, unless the CONSULTANT has notified the

Attachment D

CITY otherwise, the CONSULTANT warrants that all products, materials, processes or treatments identified in the project documents prepared for the CITY are reasonably commercially available. Any failure by the CONSULTANT to use due diligence under this subparagraph will render the CONSULTANT liable to the CITY for any increased costs that result from the CITY's later inability to obtain the specified items or any reasonable substitute within a price range that allows for project completion in the time frame specified or, when not specified, then within a commercially reasonable time.

12. **NON-DISCRIMINATION PROVISIONS.** The CONSULTANT shall not discriminate against any employee or applicant for employment because of age, race, color, ancestry, religion, sex, sexual orientation, marital status, national origin, physical handicap, or medical condition. The CONSULTANT will take positive action to insure that applicants are employed without regard to their age, race, color, ancestry, religion, sex, sexual orientation, marital status, national origin, physical handicap, or medical condition. Such action shall include but not be limited to the following: employment, promotion, demotion, transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The CONSULTANT agrees to post in conspicuous places available to employees and applicants for employment any notices provided by the CITY setting forth the provisions of this non-discrimination clause.

13. **CONFIDENTIAL INFORMATION.** The CITY may from time to time communicate to the CONSULTANT certain confidential information to enable the CONSULTANT to effectively perform the services to be provided herein. The CONSULTANT shall treat all such information as confidential and shall not disclose any part thereof without the prior written consent of the CITY. The CONSULTANT shall limit the use and circulation of such information, even within its own organization, to the extent necessary to perform the services to be provided herein. The foregoing obligation of this Section 13, however, shall not apply to any part of the information that (i) has been disclosed in publicly available sources of information; (ii) is, through no fault of the CONSULTANT, hereafter disclosed in publicly available sources of information; (iii) is already in the possession of the CONSULTANT without any obligation of confidentiality; (iv) has been or is hereafter rightfully disclosed to the CONSULTANT by a third party, but only to the extent that the use or disclosure thereof has been or is rightfully authorized by that third party; or (v) is disclosed according to law or court order.

The CONSULTANT shall not disclose any reports, recommendations, conclusions or other results of the services or the existence of the subject matter of this Agreement without the prior written consent of the CITY. In its performance hereunder, the CONSULTANT shall comply with all legal obligations it may now or hereafter have respecting the information or other property of any other person, firm or corporation.

CONSULTANT shall be liable to CITY for any damages caused by breach of this condition, pursuant to the provisions of Section 14.

14. **INDEMNIFICATION AND HOLD HARMLESS.** The CONSULTANT shall indemnify, defend, and hold harmless the CITY, and its elected officials, officers, agents and employees from any and all claims, demands, costs or liability that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of CONSULTANT, its employees, agents, and subcontractors in the performance of services under this Agreement. CONSULTANT's duty to indemnify under this section shall not include liability for damages for death or bodily injury to persons, injury to property, or other loss, damage or expense arising from the sole negligence

or willful misconduct by the CITY or its elected officials, officers, agents, and employees. CONSULTANT's indemnification obligations shall not be limited by the insurance provisions of this Agreement. The CITY AND CONSULTANT expressly agree that any payment, attorney's fees, costs or expense CITY incurs or makes to or on behalf of an injured employee under the CITY's self-administered workers' compensation is included as a loss, expense, or cost for the purposes of this section, and that this section will survive the expiration or early termination of this Agreement.

15. **WORKERS' COMPENSATION.** The CONSULTANT shall comply with all of the provisions of the Workers' Compensation Insurance and Safety Acts of the State of California, the applicable provisions of Division 4 and 5 of the California Government Code and all amendments thereto; and all similar state or Federal acts or laws applicable; and shall indemnify, and hold harmless the CITY and its elected officials, officers, agents, and employees from and against all claims, demands, payments, suits, actions, proceedings and judgments of every nature and description, including reasonable attorneys' fees and defense costs presented, brought or recovered against the CITY or its elected officials, officers, agents, and employees for or on account of any liability under any of said acts which may be incurred by reason of any work to be performed by the CONSULTANT under this Agreement.

16. **INSURANCE.** The CONSULTANT, at its sole cost and expense, shall purchase and maintain, and shall require its subcontractors, when applicable, to purchase and maintain throughout the term of this Agreement, the following insurance policies:

☒ A. If checked, Professional Liability Insurance (errors and omissions) with minimum limits of \$1,000,000 per occurrence.

B. Automobile insurance covering all bodily injury and property damage incurred during the performance of this Agreement, with a minimum coverage of \$1,000,000 combined single limit per accident. Such automobile insurance shall include non-owned vehicles.

C. Comprehensive general liability insurance, with minimum limits of \$1,000,000 combined single limit per occurrence, covering all bodily injury and property damage arising out of its operation under this Agreement.

D. Workers' compensation insurance covering all of CONSULTANT's employees.

E. The aforesaid policies shall constitute primary insurance as to the CITY, its elected officials, officers, agents, and employees so that any other policies held by the CITY shall not contribute to any loss under said insurance. Said policies shall provide for thirty (30) days prior written notice to the CITY of cancellation or material change.

F. Said policies, except for the professional liability and workers' compensation policies, shall name the CITY and its elected officials, officers, agents, and employees as additional insureds.

G. If required insurance coverage is provided on a "claims made" rather than "occurrence" form, the CONSULTANT shall maintain such insurance coverage for three years after expiration of the term (and any extensions) of this Agreement.

H. Any aggregate insurance limits must apply solely to this Agreement.

Attachment D

I. Insurance shall be written with only California admitted companies which hold a current policy holder's alphabetic and financial size category rating of not less than A VIII according to the current Best's Key Rating Guide, or a company equal financial stability that is approved by the CITY.

J. This Agreement shall not take effect until certificate(s) or other sufficient proof that these insurance provisions have been complied with, are filed with and approved by the CITY. If the CONSULTANT does not keep all of such insurance policies in full force and effect at all times during the terms of this Agreement, the CITY may elect to treat the failure to maintain the requisite insurance as a breach of this Agreement and terminate the Agreement as provided herein.

17. **LEGAL FEES.** If any party brings a suit or action against the other party arising from any breach of any of the covenants or agreements or any inaccuracies in any of the representations and warranties on the part of the other party arising out of this Agreement, then in that event, the prevailing party in such action or dispute, whether by final judgment or out-of-court settlement, shall be entitled to have and recover of and from the other party all reasonable costs and expenses of suit, including reasonable attorneys' fees.

For purposes of determining who is to be considered the prevailing party, it is stipulated that attorneys' fees incurred in the prosecution or defense of the action or suit shall not be considered in determining the amount of the judgment or award. Attorneys' fees to the prevailing party if other than the CITY shall, in addition, be limited to the amount of attorneys' fees incurred by the CITY in its prosecution or defense of the action, irrespective of the actual amount of attorney's fees incurred by the prevailing party.

18. **MEDIATION/ARBITRATION.** If a dispute arises out of or relates to this Agreement, or the breach thereof, the parties agree first to try, in good faith, to settle the dispute by mutual negotiation between the principals, and failing that through nonbinding mediation in San Diego, California, in accordance with the Commercial Mediation Rules of the American Arbitration Association (the "AAA"). The costs of mediation shall be borne equally by the parties.

19. **TERMINATION.** This Agreement may be terminated with or without cause by the CITY. Termination without cause shall be effective only upon thirty (30) days written notice to the CONSULTANT. During said 30-day period the CONSULTANT shall perform all services in accordance with this Agreement. The CONSULTANT may terminate this agreement upon thirty (30) days prior notice in the event of a continuing and material breach by the CITY of its obligations under this Agreement including but not limited to payment of invoices. Termination with or without cause shall be effected by delivery of written Notice of Termination to the CONSULTANT as provided for herein.

This Agreement may also be terminated immediately by the CITY for cause in the event of a material breach of this Agreement that is not cured to the CITY's satisfaction within a ten (10) day prior cure period, or material misrepresentation by the CONSULTANT in connection with the formation of this Agreement or the performance of services, or the failure to perform services as directed by the CITY.

The CITY further reserves the right to immediately terminate this Agreement upon: (1) the filing of a petition in bankruptcy affecting the CONSULTANT; (2) a reorganization of the

CONSULTANT for the benefit of creditors; or (3) a business reorganization, change in business name or change in business status of the CONSULTANT.

In the event of termination, all finished or unfinished Memoranda, Reports, Maps, Drawings, Plans, Specifications and other documents prepared by the CONSULTANT, whether paper or electronic, shall immediately become the property of and be delivered to the CITY, and the CONSULTANT shall be entitled to receive just and equitable compensation for any work satisfactorily completed on such documents and other materials up to the effective date of the Notice of Termination, not to exceed the amounts payable hereunder, less any damages caused the CITY by the CONSULTANT's breach, if any. Thereafter, ownership of said written materials shall vest in the CITY all rights set forth in Section 6.

20. **NOTICES.** All notices or other communications required or permitted hereunder shall be in writing, and shall be personally delivered; or sent by overnight mail (Federal Express or the like); or sent by registered or certified mail, postage prepaid, return receipt requested; or sent by ordinary mail, postage prepaid; or sent by facsimile or fax; and shall be deemed received upon the earlier of (i) if personally delivered, the date of delivery to the address of the person to receive such notice, (ii) if sent by overnight mail, the business day following its deposit in such overnight mail facility, (iii) if mailed by registered, certified or ordinary mail, five (5) days within California or ten (10) days if the address is outside the State of California after the date of deposit in a post office or mailbox regularly maintained by the United States Postal Service, (iv) if given by facsimile or fax, when sent. Any notice, request, demand, direction or other communication delivered or sent as specified above shall be directed to the following persons:

To the CITY:
Leon Firsh, City Engineer
CITY OF LEMON GROVE
3232 Main Street
Lemon Grove, CA 91945

To the CONSULTANT:
Mark Tarrall
Dokken Engineering
5675 Ruffin Road, Suite 250
San Diego, CA 92123

Notice of change of address shall be given by written notice in the manner specified in this Section. Rejection or other refusal to accept or the inability to deliver because of changed address of which no notice was given shall be deemed to constitute receipt of the notice, demand, request or communication sent.

21. **CONFLICT OF INTEREST AND POLITICAL REFORM ACT OBLIGATIONS.** During the term of this Agreement, the CONSULTANT shall not perform services of any kind for any person or entity whose interests conflict in any way with those of the CITY OF LEMON GROVE. The CONSULTANT also agrees not to specify any product, treatment, process or material for the project in which the CONSULTANT has a material financial interest, either direct or indirect, without first notifying the CITY of that fact. The CONSULTANT shall at all times comply with the terms of the Political Reform Act and the Lemon Grove Conflict of Interest Code. The CONSULTANT shall immediately disqualify itself and shall not use its official position to influence in any way any matter coming before the CITY in which the CONSULTANT has a financial interest as defined in Government Code Section 87103. The CONSULTANT represents that it has no knowledge of any financial interests that would require it to disqualify itself from any matter on which it might perform services for the CITY.

Attachment D

☒ If checked, the CONSULTANT shall comply with all of the reporting requirements of the Political Reform Act and the CITY OF LEMON GROVE Conflict of Interest Code. Specifically, the CONSULTANT shall:

1. Go to www.fppc.ca.gov
2. Download the Form 700: Statement of Economic Interests
3. Completely fill out the form
4. Submit the form to the Public Works Department with the signed Agreement.

The CONSULTANT shall be strictly liable to the CITY for all damages, costs or expenses the CITY may suffer by virtue of any violation of this Paragraph 21 by the CONSULTANT.

22. MISCELLANEOUS PROVISIONS.

A. *Computation of Time Periods.* If any date or time period provided for in this Agreement is or ends on a Saturday, Sunday or federal, state or legal holiday, then such date shall automatically be extended until 5:00 p.m. Pacific Time of the next day which is not a Saturday, Sunday or federal, state or legal holiday.

B. *Counterparts.* This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, but all of which, together, shall constitute but one and the same instrument.

C. *Captions.* Any captions to, or headings of, the sections or subsections of this Agreement are solely for the convenience of the parties hereto, are not a part of this Agreement, and shall not be used for the interpretation or determination of the validity of this Agreement or any provision hereof.

D. *No Obligations to Third Parties.* Except as otherwise expressly provided herein, the execution and delivery of this Agreement shall not be deemed to confer any rights upon, or obligate any of the parties hereto, to any person or entity other than the parties hereto.

E. *Exhibits and Schedules.* The Exhibits and Schedules attached hereto are hereby incorporated herein by this reference for all purposes.

F. *Amendment to this Agreement.* The terms of this Agreement may not be modified or amended except by an instrument in writing executed by each of the parties hereto.

G. *Waiver.* The waiver or failure to enforce any provision of this Agreement shall not operate as a waiver of any future breach of any such provision or any other provision hereof.

H. *Applicable Law.* This Agreement shall be governed by and construed in accordance with the laws of the State of California.

I. *Entire Agreement.* This Agreement supersedes any prior agreements, negotiations and communications, oral or written, and contains the entire agreement between the parties as to the subject matter hereof. No subsequent agreement, representation, or promise made by either party hereto, or by or to an employee, officer, agent or representative of

Attachment D

any party hereto shall be of any effect unless it is in writing and executed by the party to be bound thereby.

J. *Successors and Assigns.* This Agreement shall be binding upon and shall inure to the benefit of the successors and assigns of the parties hereto.

K. *Construction.* The parties acknowledge and agree that (i) each party is of equal bargaining strength, (ii) each party has actively participated in the drafting, preparation and negotiation of this Agreement, (iii) each such party has consulted with or has had the opportunity to consult with its own, independent counsel and such other professional advisors as such party has deemed appropriate, relative to any and all matters contemplated under this Agreement, (iv) each party and such party's counsel and advisors have reviewed this Agreement, (v) each party has agreed to enter into this Agreement following such review and the rendering of such advice, and (vi) any rule or construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in the interpretation of this Agreement, or any portions hereof, or any amendments hereto.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date and year first above written.

CITY OF LEMON GROVE

DOKKEN ENGINEERING.

Graham Mitchell, City Manager

Name, Title

Date

Date

Name, Title

Date

APPROVED AS TO FORM:

James Lough, City Attorney

Date

Attachment D

EXHIBIT A
SCOPE AND FEE
CONSTRUCTION MANAGEMENT FOR
BID SET I – CIPP LINING AND MINOR SEWER REPAIRS AND

PROJECT LOCATION

The project is located throughout the City of Lemon Grove, CA.

PROJECT DESCRIPTION

This Scope of Services and Fee is to provide the City with construction support services and construction management and inspection services for the Bid Set I-CIPP Lining and Minor Sewer Repairs Project.

1. CONSTRUCTION PHASE SERVICES

1.1. Reports and Communications (Document Control)

Project Document Control: Maintain field memoranda, transmittals, updated schedules, logs of shop drawings and other submittals, logs of requests for information, change orders, progress payment requests, progress meeting reports, compaction reports, daily inspection reports, and any additional relevant project correspondence. Project documentation will be kept digitally as well as hard copies, and files will be organized in a logical manner as approved by the City.

1.2. Construction Administration

- A. Construction Progress Meetings: Consultant will schedule and conduct bi-weekly construction progress meetings with the contractor(s) and the City, provide meeting agendas and discuss the schedule, near term activities, clarifications and problems which need resolution, coordination with other contractors, status of change orders, and safety issues, prepare minutes of the meetings with identified action items, distribute the minutes to the attendees. Consultant has included scope for Ms. Fagnant to attend up to one (1) progress/field meetings and two (2) hours of coordination for Mr. Weber in regards to issues arising from progress/field meetings.
- B. Project Coordination: Provide coordination between the Contractor, Agencies, Public Outreach Consultant, Private Properties and the City as needed to facilitate the construction process. Consultant will ensure that the parties have up to date necessary information and documents such as shop drawings, submittals, plan revisions, by-pass plans, and traffic control plan. A documentation tracking procedure will be used to track the distribution of these documents.

Attachment D

- C. Shop Drawings and Submittal Reviews: Coordinate submittal review and approval. Consultant will be responsible for processing and monitoring the status of submittals. Consultant's field staff will provide cursory review of the contractor's submittals for general conformance with the contract document requirements prior to sending the submittals to the design staff. Consultant has included scope to review up to one (1) submittal by design staff. Submittals of a general nature will be reviewed and processed by the CM team at the City's request.
- D. Plans and Specifications Interpretation (RFI Processing): Consultant's construction management team will review and respond to contractor RFIs of a general nature. Technical RFIs will be submitted to the project design engineer for response. Maintain a log of RFIs and in order to ensure that written clarifications are provided to the contractor in a timely manner. Responses to requests for changes to the design will be submitted to the City's Project Manager and the design team for response and approval. Consultant has included scope to review up to two (2) RFIs by design staff.
- E. Respond to Change Order Requests: Identify, prepare log, and monitor contractor or City initiated claims, changes, extra work, and change orders. Negotiate claims to an agreed Contractor/Consultant/City conclusion. Provide written recommendations to the City regarding the resolution of change orders and submit change orders to the City for approval. Prepare a report providing statement of claim, extra work, or change; background leading to the issue; resolution recommendation for action by the City. Prepare written justification and cost estimates for each change order that require design modifications or clarifications, including revisions to the drawing, details, and specifications. Resolve claims, extra work, and change orders for changes to the work and obtain City approval.
- F. Progress Payment Reviews: Prepare project related invoices and progress payments. Submit invoices to the City's project manager with a recommendation stating the proper amount for payment using the Schedule of Values and actual quantities as a basis to prepare payment requests. Progress Payment review will also include evaluation of the monthly updated construction schedule and review of the project as-builts to verify that the contractor is up to date. In addition, review of monthly progress payments will include review of the Contractor's required inspections, testing, and reports as required by the project SWPPP and the Construction General Permit.

Attachment D

1.3. Construction Inspection Services

Daily Construction Monitoring: Provide inspection and specialty inspection to observe and document that the contractor's work is in compliance with the contract documents. Prepare daily reports of the construction activities including weather conditions, contractor's equipment and manpower, work performed, materials used, site visitors, note delays in work and reasons for the delays, and deficiencies. Prepare daily reports of deviations and non-conformance to specifications and provide a timely response. Perform technical inspection at the job site as required of materials and workmanship, and discuss with the contractor appropriate revisions to the methods and procedures used in performing the work. Provide photo documentation of daily site conditions and daily construction activities. Observe and record all material deliveries to the site. Material certificates shall be verified and documented for compliance with plans, specifications, and approved shop drawings. Prepare a detailed daily report summarizing observations and work performed on site each day/shift. Maintain on a daily basis a set of as-built drawings as verification and redundancy to the Contractors.

1.4 Project Administration

Project Management: Submit monthly invoices that show project costs that are based on conservative estimates of percentage of completion.

Progress Reports: Prepare progress reports and submit to the City of Lemon Grove with monthly invoice. The report shall state the progress made during the month, the anticipated progress to be made next month, issues that are not resolved (with recommended solutions to get them resolved and a discussion of the schedule (including percentage completed this period and total percentage completed to-date.

POST-CONSTRUCTION PHASE SERVICES

2.1 Project Closeout

Prepare detailed project punch item lists at closeout of the project. Upon correction of deficiencies, schedule, coordinate, and conduct a final walk through prior to acceptance of work with the City. Verify work, testing, cleanup and demobilization is complete. Check and submit final payment requests after final walk through. Review and certify that the contractor's project record drawings are complete and accurate.

2.2 Final Project Documents

Within 30 days of filing of the notice of completion, provide a Construction Documentation notebook and electronic copy comprised of all approved shop drawings, material test reports, certifications, daily inspection reports, meeting minutes, conversation logs, and photo documentation. Also provide and submit one set of redlined as-built drawings.

Attachment D

2. PAYMENT OF FEE FOR CONSULTANT SERVICES

The services are proposed to be billed on an hourly not to exceed basis. Consultant has developed the estimated hours for these services through conversations with City staff and our experience on similar projects. Consultant has budgeted for field inspection time based on a 60 calendar day construction schedule. Attached is a detailed breakdown based on anticipated hours by staff type, with corresponding hourly rates, that we feel will be dedicated to each task outlined in our scope. The fee for Consultant services is as follows:

Task 1.1 Reports and Communications (Document Control)	\$ <u>1,280</u>
Task 1.2 Construction Administration	\$ <u>10,120</u>
Task 1.3 Construction Inspection Services	\$ <u>27,000</u>
Task 1.4 Project Administration	\$ <u>1,735</u>
Task 2.1 Project Closeout	\$ <u>320</u>
Task 2.2 Final Project Documents	\$ <u>320</u>
Total Fee	\$ <u>40,775</u>

3. SCHEDULE

This proposal is based on the Bid Set I construction schedule of 60 calendar days.

4. APPROVALS

Approved By:
Development Services Department

Approved By:
Consultant

Leon Firsh

Print Name _____

Title: City Engineer

Title: _____

Date: _____

Date: _____